



**STATE OF NEW JERSEY**

In the Matter of Sharonda Bodison,  
Fire Fighter (M1540T), Irvington

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

CSC Docket No. 2018-3080

List Removal Appeal

**ISSUED: NOVEMBER 23, 2018 (JET)**

Sharonda Bodison appeals the removal of her name from the Fire Fighter (M1540T), Irvington, eligible list on the basis of an unsatisfactory criminal record.

The appellant took the open competitive examination for Fire Fighter (M1540T), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified to the appointing authority on May 6, 2016 (OL160577 certification). In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of an unsatisfactory criminal record. Specifically, the appointing authority provided documentation to show that, as a result of a complaint dated February 3, 2015, a Final Restraining Order (FRO) was issued against the appellant effective February 12, 2015 pursuant to *N.J.S.A. 2C:25-17, et. seq.*

On appeal, the appellant asserts, among other things, that her daughter's father filed a restraining order against her at some point which was later dropped. The appellant contends that she and her daughter's father are now raising their child together with no issues. Moreover, the appellant states that she is still interested in being appointed as a Fire Fighter. In support, the appellant provides a copy of an Order of Dismissal indicating that the FRO was dismissed effective June 6, 2017.

Despite being provided with the opportunity, the appointing authority did not provide a response.

## CONCLUSION

*N.J.S.A.* 11A:4-11, in conjunction with *N.J.A.C.* 4A:4-4.7(a)4, provides that an eligible's name may be removed from an employment list when an eligible has a criminal record which includes a conviction for a crime which adversely relates to the employment sought. In addition, when the eligible is a candidate for a public safety title, an arrest unsupported by a conviction may disqualify the candidate from obtaining the employment sought. See *Tharpe, v. City of Newark Police Department*, 261 *N.J. Super.* 401 (App. Div. 1992). In this regard, the Civil Service Commission (Commission) must look to the criteria established in *N.J.S.A.* 11A:4-11 and *N.J.A.C.* 4A:4-4.7(a)4 to determine whether the appellant's criminal history adversely relate to the position of Fire Fighter. The following factors may be considered in such determination:

- a. Nature and seriousness of the crime;
- b. Circumstances under which the crime occurred;
- c. Date of the crime and age of the eligible when the crime was committed;
- d. Whether the crime was an isolated event; and
- e. Evidence of rehabilitation.

The presentation to an appointing authority of a pardon or expungement shall prohibit an appointing authority from rejecting an eligible based on such criminal conviction, except for law enforcement, firefighter or correction officer and other titles as determined by the Commission. It is noted that the Appellate Division of the Superior Court remanded the matter of a candidate's removal from a Police Officer employment list to consider whether the candidate's arrest adversely related to the employment sought based on the criteria enumerated in *N.J.S.A.* 11A:4-11. See *Tharpe v. City of Newark Police Department, supra*.

Additionally, *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for an appointment.

Initially, the appointing authority has not presented substantive evidence that the appellant was charged and convicted of any crime. The FRO, in and of itself, is not evidence that the appellant was charged and convicted of a crime pursuant to the above listed rules. Since the appointing authority did not provide any tangible evidence of any underlying arrest or criminal charges that led to the issuance of the FRO, it cannot be substantively concluded that the appellant was

arrested and charged with any crimes. Although the FRO is concerning, the appellant provides evidence to show that it was dismissed. Additionally, there is no evidence that the appellant violated the FRO prior to when it was dismissed. As such, the appointing authority has not substantiated its claim that the appellant has an unsatisfactory criminal background.

In this matter, the appellant argues that she should be restored to list as the FRO was dismissed and she has not been involved with any other incidents since that time. Although the FRO appears to be an isolated incident, it cannot be ignored that the FRO was issued a little more than a year and three months prior to when her name was certified from the May 6, 2016 list. Moreover, the appellant has not completely explained the circumstances underlying the FRO.

In *Karins v. City of Atlantic City*, 152 N.J. 532, 552 (1998) the Supreme Court stated:

Firefighters are not only entrusted with the duty to fight fire; they must also be able to work with the general public and other municipal employees, especially police officers, because the police department responds to every emergency fire call. Any conduct jeopardizing an excellent working relationship places at risk the citizens of the municipality as well as the men and women of those departments who place their lives on the line on a daily basis. An almost symbiotic relationship exists between the fire and police departments at a fire.

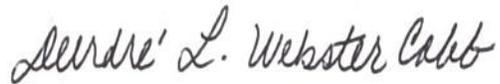
In this matter, the appellant's adverse background information pertaining to the FRO is relevant to the position sought, as such a history is not conducive to the performance of the duties of a Fire Fighter. As noted above, the public expects Fire Fighters to present a personal background that exhibits respect for the law and the rules. Although the FRO was dismissed, such recent information in her background is unacceptable for an individual applying for the position of Fire Fighter. Notwithstanding that it was later dismissed, since the FRO was in effect at the time the appointing authority reviewed the appellant's background report, the appellant's removal was appropriate. However, the dismissed FRO will not be sufficient to remove the appellant from future lists. As such, given the recent FRO in the appellant's background, a sufficient basis has been presented to remove her name on the subject certification pursuant to *N.J.A.C. 4A:4-6.1(a)9*.

### **ORDER**

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 21<sup>st</sup> DAY OF NOVEMBER, 2018



Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

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